

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

KEITH GEORGE,)	
)	
Plaintiff,)	
)	
v.)	No. 4:09CV1686 FRB
)	
MICHAEL J. ASTRUE,)	
Commissioner of Social Security,)	
)	
Defendant.)	

MEMORANDUM AND ORDER

Presently pending before the Court is plaintiff's Motion for Attorney's Fees (filed May 6, 2011/Doc. #24). All matters are pending before the undersigned United States Magistrate Judge, with consent of the parties, pursuant to 28 U.S.C. § 636(c).

This cause came before the Court on plaintiff's appeal of an adverse decision of the Social Security Administration. In a Memorandum, Order and Judgment entered March 17, 2011, the Commissioner's decision was reversed and this cause was ordered remanded to the Commissioner for further administrative proceedings pursuant to sentence four of 42 U.S.C. § 405(g). In the instant motion, plaintiff seeks an award of attorney's fees in the amount of \$6,709.56 inasmuch as plaintiff is a prevailing party, has a net worth of less than two million dollars, and incurred these fees in this action. 28 U.S.C. § 2412(d). Plaintiff also requests the Court to impose certain conditions under which the fees would be payable to either plaintiff or counsel.

In response to the motion, the Commissioner avers that the parties have agreed to an award of fees in the amount of \$5,750.00, and requests that any award be made payable in accordance with Astrue v. Ratliff, ___ U.S. ___, 130 S. Ct. 2521 (2010). Defendant Commissioner also specifically requests that, in the event there is no debt owed by plaintiff to the United States, the fee be made payable to plaintiff's attorney based on a Fee Agreement and Assignment—Federal Court entered into by plaintiff and his counsel.¹ Plaintiff has not filed a reply to defendant's response.

Upon review of plaintiff's motion and the Commissioner's response, the undersigned determines the agreed upon fees and the Commissioner's requested terms of payment to be reasonable.

Accordingly,

IT IS HEREBY ORDERED that plaintiff's Motion for Attorney's Fees (Doc. #24) is granted to the extent plaintiff seeks the recovery of attorney's fees under the Equal Access to Justice Act, 28 U.S.C. § 2412(d). In all other respects, the motion is

¹In the Fee Agreement and Assignment—Federal Court, plaintiff agrees:

If EAJA fees and/or costs are awarded, I hereby assign any court awarded EAJA attorney fees and/or costs to my attorney. I want the EAJA payment issued in my attorney's name and mailed to my attorney's address or direct deposited into my attorney's account.

(Pltf.'s Mot. for Atty.'s Fees, Attch. 3.) (Emphasis in original.)

denied.

IT IS FURTHER ORDERED that, pursuant to 28 U.S.C. § 2412(d), plaintiff shall recover attorney's fees in the amount of Five Thousand, Seven Hundred Fifty and 00/100 Dollars (\$5,750.00).

IT IS FURTHER ORDERED that, to the extent any amount of said award is not subject to offset to satisfy any pre-existing debt plaintiff owes to the United States, said amount shall be made payable to attorney David D. Camp pursuant to the terms of the Fee Agreement and Assignment-Federal Court executed by the plaintiff in this cause, and mailed to plaintiff's attorney at 230 S. Bemiston Ave., Suite 810, St. Louis, MO 63105.


UNITED STATES MAGISTRATE JUDGE

Dated this 19th day of July, 2011.